

INDIANA DEPARTMENT OF STATE REVENUE

Revenue Ruling #2001-09ST

September 11, 2001

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ISSUE

Sales/Use Tax – Sale of Club Memberships

Authority: IC 6-2.5-2-1, IC 6-2.5-4-1, IC 6-2.5-1-1, IC 6-2.5-1-2

The taxpayer requests the Department to determine the proper taxation of the sale of club memberships for sales/use tax.

STATEMENT OF FACTS

The taxpayer is located in Illinois and is engaged in the wholesale sale of collectibles and giftware. The taxpayer sells several lines of figurine collectibles. Most of the figurines are sold at retail shops and stores. Due to the popularity of the figurines and propensity of its end customers to collect the figurines, the taxpayer (initially through an affiliate that no longer exists) formed collector's clubs for three of its product lines (Club #1, Club #2 and Club #3).

A prospective club member generally picks up a membership application at a local retail shop and mails it, with his or her remittance, to the taxpayer in Illinois. The company also mails applications to potential club members from lists that are either developed internally or purchased. The individual may purchase a one or two year membership, payable in advance.

Membership confers a number of benefits. Club members become eligible to purchase exclusive members-only figurines. They receive a quarterly newsletter, and they are invited to attend special shows, to attend members only events at collectors' conventions, and to go on collectors' cruises. The conventions feature seminars on crafts, interactive games, cross-stitching sessions, a paint your own collectible session, a seminar on new products, dinners and a dance. The offerings at particular conventions vary from time to time.

When an individual purchases a membership, he or she receives a "Club Kit." If a two-year membership is purchased, a second Club Kit is sent on the first day of the following club year. The Club Kit generally includes a "symbol of membership" figure (which is smaller and considerably less expensive to produce than the figurines sold in retail stores), decorative packaging and other ancillary items. The figurines and kits are manufactured and assembled in the Far East.

The membership fees charged, and approximate cost of the Club Kits, for 2001 are set forth below. In each case, the cost of the free membership pieces is approximately 25% of the total cost of the club kits. The other costs consist of the decorative box, a few ancillary items such as pens and paper, and various forms that are sent to the collectors.

	<u>Membership Fee</u>	<u>Cost of Club Kits</u>
Club #1	\$28.00	\$8.20
Club #2	20.00	6.35
Club #3	22.50	9.09

DISCUSSION

IC 6-2.5-2-1 imposes sales tax on retail transactions made in Indiana. IC 6-2.5-4-1 defines a retail transaction as the transfer of tangible personal property for consideration. IC 6-2.5-1-1 provides that a “unitary transaction” includes all items of personal property and services which are furnished under a single order or agreement and for which a total combined charge or price is calculated. IC 6-2.5-1-2 states that a “retail unitary transaction” means a unitary transaction that is, also, a retail transaction, hence, the transaction is subject to sales tax.

It is clear then, the taxpayer’s sale of club memberships is statutorily defined as a “retail unitary transaction” [sale of tangible personal property and services (intangible rights)], therefore, the membership fees are subject to sales tax to be collected by the taxpayer.

RULING

The Department rules that the sale of club memberships is subject to sales tax to be collected by the taxpayer.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer’s facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, changes in statute, a regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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